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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FIRIBA ACHEKZAI and
MOHAMMAD HAMID RAHIMI,

Plaintiffs,

v.

CONDOLEEZA RICE, Secretary of State;
MICHAEL CHERTOFF, Secretary,
Department of Homeland Security;
MICHAEL CHANG, Consul General,
United States Embassy Islamabad, Pakistan;
ROBERT S. MUELLER, Director,
Federal Bureau of Investigation;
MICHAEL MUKASEY, Attorney General,

Defendants.

No. C 08-1058 EDL

ANSWER

The Defendants hereby submit their answer to Plaintiffs' Complaint for Writ in the Nature of Mandamus.

PRELIMINARY STATEMENT

1. Paragraph One consists of Plaintiffs' characterization of this action, to which no responsive pleading is required; however, to the extent a responsive pleading is necessary, Defendants deny the allegation that they have improperly withheld action on the application to Plaintiffs' detriment.

PARTIES

ANSWER
C 08-1058 EDL

2. Defendants admit the allegations in Paragraph Two.

3. Defendants admit the allegations in the first sentence in Paragraph Three, but deny the allegations in the second and third sentences in Paragraph Three.

4. Defendants admit the allegations in Paragraph Four.

5. Defendants admit the allegations in Paragraph Five.

6. Defendants admit the allegations in Paragraph Six.

7. Defendants admit the allegations in Paragraph Seven.

8. Defendants admit the allegations in Paragraph Eight.

JURISDICTION

9. Paragraph Nine consists of Plaintiffs' allegation regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, Defendants deny that this Court has jurisdiction under any of the provisions cited in Paragraph Nine.

VENUE

10. The defendants deny the allegation that Elk Grove, California, is within the Northern District of California, and, accordingly, deny that venue is proper in this District.

FACTS

11. Paragraph Eleven consists of Plaintiffs' conclusions of law, to which no responsive pleading is required; however, to the extent a responsive pleading is necessary.

12. Defendants admit the allegations in Paragraph Twelve.

13. Defendants are without sufficient information or knowledge to either admit or deny the allegations in Paragraph Thirteen.

14. Defendants admit the allegations in Paragraph Fourteen.

15. Defendants are without sufficient information or knowledge to either admit or deny the allegations in Paragraph Fifteen.

16. Defendants admit the allegations in the first sentence of Paragraph Sixteen, but deny the allegations in the second sentence of Paragraph Sixteen.

17. There is no paragraph seventeen.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(MANDAMUS)

18. Defendants incorporate its responses to Paragraph One through Sixteen as if set forth fully herein.

19. Defendants deny the allegations in Paragraph Nineteen.

20. Defendants deny the allegations in Paragraph Twenty.

SECOND CAUSE OF ACTION

(ADMINISTRATIVE PROCEDURE ACT)

21. Defendants incorporate its responses to Paragraph One through Twenty as if set forth fully herein.

22. Defendants deny the allegations in Paragraph Twenty-Two.

23. Defendants deny the allegations in Paragraph Twenty-Three.

PRAYER FOR RELIEF

The remaining paragraph consists of Plaintiffs' prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny this paragraph.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The court should dismiss the Complaint for lack for subject matter jurisdiction.

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1 WHEREFORE, Defendants pray for relief as follows:

2 That judgment be entered for Defendants and against Plaintiffs, dismissing Plaintiffs'
3 Complaint with prejudice; that Plaintiffs take nothing; and that the Court grant such further relief
4 as it deems just and proper under the circumstances.

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8 Dated: April 28, 2008

Respectfully submitted,

9 JOSEPH P. RUSSONIELLO
10 United States Attorney

11 /s/
12 EDWARD A. OLSEN
13 Assistant United States Attorney
14 Attorneys for Defendants
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